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No. 02-111

Supreme Court, U.S.
FILED
AUG 22 2002
CLERK

IN THE

UNITED STATES SUPREME COURT

AN UNIDENTIFIED PRIVATE CITIZEN,

Petitioner,

vs.

McCLATCHY NEWSPAPERS, INC., dba THE SACRAMENTO BEE,

Respondent.

PETITION TO UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

RESPONDENT'S OPPOSITION TO PETITIONER'S MOTION TO APPEAR AS "UNIDENTIFIED PRIVATE CITIZEN" AND PETITIONER'S COUNSEL TO APPEAR AS "ATTORNEY DOE"

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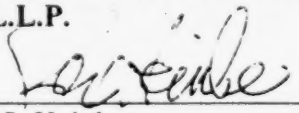
5 pp

Respondent McClatchy Newspapers, Inc., dba *The Sacramento Bee*, opposes petitioner Unidentified Private Citizen's motion to suppress his identity and that of his attorney in filings with this Court. As this Court held in *Press-Enterprise Co. v. Superior Court*, 478 U.S.1 (1986) (*Press-Enterprise II*), public access is "essential to the proper functioning of the proceedings in the overall criminal justice process." *Id.* at 10. Accordingly, a party seeking to limit the public's access to criminal proceedings, including preliminary hearings, must show that "closure is essential to preserve the higher values and is narrowly tailored to serve that interest.'" *Id.* at 10 (quoting *Press-Enterprise Co. v. Superior Court*, 464 U.S. 501 (1984) (*Press-Enterprise I*)). Unless a party can demonstrate a substantial probability of prejudice if the proceedings are not kept open, such a motion should be denied. Here, petitioner states no reasons and cites no authority in support of his motion, much less makes the requisite showing of prejudice. Petitioner's motion should therefore be denied.

Respectfully submitted,

Dated: August 20, 2002

AKIN, GUMP, STRAUSS, HAUER & FELD, L.L.P.



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PROOF OF SERVICE BY MAIL

1. I am employed in the County of Los Angeles, State of California, and over the age of eighteen years. I am not a party to the within cause. My business address is 2029 Century Park East, Suite 2400, Los Angeles, California 90067.

2. I served the document listed below by placing a true copy thereof in a sealed envelope with postage thereon fully prepaid (by indicating the proper Federal Express Account No.), addressed as follows:

Date Served:	August 20, 2002
Document Served:	Respondent's Opposition to Petitioner's Motion to Appear as "Unidentified Private Citizen" and Petitioner's Counsel to Appear as "Attorney Doe"
Parties Served:	[SEE ATTACHED SERVICE LIST]

I caused such envelope with postage thereon fully prepaid to be deposited for overnight delivery via Federal Express at Los Angeles, California on the aforesaid date.

☒ (Federal) I declare under penalty of perjury that the foregoing is true and correct, that I am employed in the office of a member of the bar of this court at whose direction the service was made, and that this declaration was executed on August 20, 2002, at Los Angeles, California.

Robin-lyn Mendick

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